

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

IVAN ROMERO, JESSICA  
JUAREZ, and S.R., a minor by and  
through his guardian ad litem, IVAN  
ROMERO.

## Plaintiffs,

V.

PASCO SCHOOL DISTRICT,  
RATREE ALBERS, NORA  
FLORES, TIM SULLIVAN,  
SAUNDRA HILL, JOHN and  
JANE DOES 1-30.

### Defendants.

CASE NO.: 4:16-CV-5112-TOR

## ORDER GRANTING DEFENDANTS' PARTIAL MOTION TO DISMISS

**BEFORE THE COURT** is Defendants' Motion to Dismiss Plaintiffs' Claims

Against the Individually-Named Defendants in their Official Capacities and

Plaintiffs Ivan Romero and Jessica Juarez's § 1983 Claims pursuant to Fed. R. Civ.

P. 12(b)(6). ECF No. 7. Although this matter is scheduled for consideration

without oral argument on November 28, 2016, the Court finds no reason to delay

its order because the matter is unopposed.

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**BACKGROUND**

Plaintiffs Ivan Romero, Jessica Juarez, and S.R., a minor by and through his guardian ad litem Ivan Romero, commenced this action on August 15, 2016, alleging, inter alia, that S.R. was subjected to “ongoing verbal, psychological and physical abuse” while attending Robert Frost Elementary.<sup>1</sup> *See* ECF No. 1 at ¶¶ 13-14, 43. Specifically, Plaintiffs allege that S.R.’s teacher, Defendant Ratree Albers (“Albers”) ignored S.R., restrained him, and took him to a bathroom with the lights off knowing that S.R. is afraid of the dark. *Id.* at ¶¶ 35-38.

**DISCUSSION**

Defendants move to dismiss all claims against Defendants Nora Flores, Tim Sullivan, and Saundra Hill with prejudice, because Plaintiffs have already named the Pasco School District as a Defendant and these individuals “are only being sued in their official capacities.” *See* ECF No. 7 at 6. For the same reason, Defendants move to dismiss all claims asserted against Defendant Ratree Albers,

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<sup>1</sup> Plaintiffs’ Complaint refers to the minor child, S.R., by his first name several times in the Complaint. *Id.* at ¶¶ 37-38. Plaintiffs are admonished that Rule 5.2(a)(3) of the Federal Rules of Civil Procedure prohibits the use of a minor’s name.

1 in her official capacity, with prejudice, *id.*, but not those asserted against  
2 Defendant Ratree Albers in her individual capacity. *Id.* at 8-9.

3 All Defendants also seek to dismiss with prejudice Plaintiffs' § 1983  
4 Fourteenth Amendment substantive due process claims because Plaintiffs'  
5 Complaint fails to state a claim upon which relief may be granted. *Id.* at 7-8.

6 Plaintiffs have communicated to the Court that they do not intend to oppose  
7 the instant motion.<sup>2</sup> As such, the Court grants Defendants' Motion to Dismiss.

8 **ACCORDINGLY, IT IS HEREBY ORDERED:**

9 1. Defendants' Motion to Dismiss Plaintiffs' Claims Against the  
10 Individually-Named Defendants in their Official Capacities and Plaintiffs  
11 Ivan Romero and Jessica Juarez's § 1983 Claims pursuant to Fed. R. Civ.  
12 P. 12(b)(6) (ECF No. 7) is **GRANTED** as follows.

13 2. Plaintiffs' claims against Defendants Nora Flores, Tim Sullivan, and  
14 Saundra Hill are **DISMISSED with prejudice**. The Clerk shall  
15 terminate these Defendants from the docket.

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<sup>2</sup> Pursuant to Local Rule 7.1(b)(2)(B), a party must file an opposition no later  
18 than 21 days after the filing of a dispositive motion. Failure to do so may result in  
19 a finding that the party has consented to the entry of an adverse order, pursuant to  
20 Local Rule 7.1(d).

3. Plaintiffs' claims against Defendant Ratree Albers, in her official capacity only, are **DISMISSED with prejudice**.
4. Plaintiffs' § 1983 Fourteenth Amendment Due Process claims against all Defendants are **DISMISSED with prejudice**.

The District Court Clerk shall enter this order and furnish copies to counsel.

DATED: November 22, 2016.



*Thomas O Rice*  
THOMAS O. RICE  
Chief United States District Judge